

REMARKS

Applicant respectfully requests reconsideration of the above-identified patent application. Claims 41-48, 50-52, and 54-56 remain in the application. Claims 41-42, 46, and 50-51 are amended and claims 54-56 are added to more particularly point out and distinctly claim the subject matter that Applicant regards as the invention. Claims 1-40, 49 and 53 are cancelled.

I. Section 102 Rejection Based on HauteStick

As previously presented, independent claim 41 was rejected under 35 U.S.C. 102(b) as being anticipated by HauteStick.

HauteStick discloses an octagonal lacrosse handle wherein all eight sides have the same wall thickness, and wherein all eight of the corners have a wall thickness that is greater than the wall thickness of the sides. According to HauteStick, the increased thickness at the corners creates an I-beam on each edge that makes the shaft stronger and stiffer.

Applicants respectfully submit that HauteStick fails to anticipate amended independent claim 41 and new independent claim 54 because HauteStick does not disclose a lacrosse head having an asymmetric weight distribution about the longitudinal axis and/or a centerline of the handle to provide tactile feedback to a user as to the orientation of the handle, and thus the lacrosse head, in the user's hand. Despite HauteStick's statement that its shaft has an "Asymmetrical Skull Shape," HauteStick discloses a lacrosse handle that, with regard to wall thickness, is specifically designed to be *symmetric* about the longitudinal axis and/or a centerline of the handle, and therefore to have an even weight distribution about the longitudinal axis of the handle. HauteStick expressly

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teaches the advantages of having increased thickness in each and every corner of the lacrosse handle, which inherently would provide the symmetric weight distribution of this reference's handle.

Because HauteStick does not disclose every element of amended independent claim 41 and new independent claim 54, Applicant respectfully submits that the rejections based on HauteStick are overcome and/or should be withdrawn.

II. Section 103 Rejection Based on Morrow, Merola and HauteStick

As previously presented, claims 41-53 were rejected under 35 U.S.C. Section 103(a) as being unpatentable on the basis of U.S. Patent 5,568,925 to Morrow ("Morrow") in view of U.S. Patent 3,697,069 to Merola ("Merola") and HauteStick.

Morrow discloses a scooped lacrosse head that is attached to a conventional lacrosse shaft which includes a uniform thickness about its cross section. Merola discloses a baseball bat with an circular cross section having an eccentric wall thickness. Merola states that "the wall thickness of the tube [i.e. bat] is eccentric to present a stronger ball striking area when the bat is properly oriented." The exterior perimeter of the Merola bat tapers from a generally wide barrel portion to a generally narrow handle portion.

Applicant submits that Morrow, Merola and HauteStick, either alone or in combination, do not disclose, teach or suggest every element of amended independent claims 41 and 54. In particular, the references fail to disclose, teach or suggest a lacrosse handle including: (1) a polygonal hollow tube having an asymmetric weight distribution about the longitudinal axis (amended independent claim 41) or (2) an octagonal hollow tube having an exterior perimeter that is

substantially uniform from one end to the other of the lacrosse handle and an asymmetric weight distribution about a centerline of the tube (new claim 54). Morrow and HauteStick disclose lacrosse handles with a uniform cross section, but completely fail to even contemplate an asymmetric weight distribution of those handles. Merola discloses an eccentric wall thickness, but only in connection with a non-polygonal baseball bat that necessarily has a *non-uniform* (i.e., tapered) exterior surface that is not designed or suitable to receive a lacrosse handle.

Applicant further submits that there is no reason why a person of skill in the art would combine or modify Morrow, Merola and HauteStick to achieve the present invention. As the Supreme Court recently noted, “[i]t can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.” *KSR Intern. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). It is asserted that “it would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the eccentric cross sectional shape of Merola with Morrow in order to increase the strength of the shaft for checking during play.” Office Action, page 3. However, the cited references, particularly HauteStick, already expressly teach away from this combination. HauteStick teaches that *its* construction provides a handle with preferred stiffness characteristics for checking during play. Specifically, HauteStick teaches that its “Metal Matrix Composite is significantly stronger and stiffer,” and that “this additional stiffness increases your check force.” HauteStick, page 3. HauteStick further teaches that: “By increasing the amount of low-weight material in the corners it creates eight tiny I-beams in every corner. This not only adds stiffness, but it adds strength.”

HauteStick, page 3. If anything, HauteStick teaches away from the present invention by reciting the strength and stiffness advantages of its *symmetrically distributed* wall thickness.

Merola, on the other hand, fails to provide any reason why its round/circular eccentric baseball bat would be applicable to a lacrosse stick, let alone providing an asymmetric weight distribution that provides tactile feedback as to the orientation of a lacrosse handle and head. Merola teaches only that an eccentric wall thickness in a tapered baseball bat is beneficial in contacting a baseball. Indeed, Merola's construction is so unlike the present invention in providing tactile feedback based on asymmetric weight distribution that Merola suggests providing an external marking on the bat in "assisting the batter to align the bat properly" Col. 3, Lines 32-35. A person of skill in the art would have absolutely no reason to modify the *tapered* exterior perimeter of the Merola baseball bat into a *uniform* polygonal perimeter adapted to receive a lacrosse head in order substitute the eccentric wall thickness of Merola for the symmetric wall thickness of Morrow or HauteStick.

Because the prior art does not disclose, teach or suggest every element of amended independent claims 41 and 54, Applicant submits that the rejection under Section 103 with respect to Morrow, Merola and HauteStick is overcome and/or should be withdrawn.

III. Dependent Claims

The dependent claims not previously discussed depend from claims 41 and 54, and are therefore even more clearly allowable. Claim 42 recites that the wall thickness is substantially constant about the second range and wherein the second range is at least 180 degrees about the

longitudinal axis. Claim 43 recites that the wall thickness is substantially constant about the first range and wherein the first range extends about 120 degrees around the longitudinal axis. Claim 44 recites that the wall thickness includes a third range about the longitudinal axis of transition between the relatively thicker wall thickness and the relatively thinner wall thickness and wherein the third range extends between about 9 degrees to about 17 degrees around the longitudinal axis and wherein the wall thicknesses of the first and second ranges are constant. Claim 45 recites that the wall thickness is substantially constant about the first and second ranges. Claim 46 recites that the hollow tube includes an outer perimeter that is substantially uniform along the longitudinal length of the hollow tube. Claim 47 recites that the wall thickness is at a minimum over at least 180 degrees about said longitudinal axis. Claim 48 recites that the first range extends about less than one-half around the longitudinal axis. Claim 50 recites that the polygonal cross-section of the hollow tube includes a plurality of sides and wherein over half of the sides of the polygonal cross-section are in the second range, having the relatively thinner wall thickness. Claim 51 recites that the sides of the polygonal cross section of the hollow tube in the second range are disposed adjacent to one another about the longitudinal axis. Claim 52 recites that the first range of relatively thicker wall thickness is disposed on only one side of the longitudinal axis in a plane normal to the longitudinal axis. Claim 53 recites that the first range is further defined as being the thickest portion of the handle and is further defined as being unbroken such that portions of relatively thicker wall thickness oppose one another in mirrored relation across the longitudinal axis. Claim 55 recites that all of the sides and the corners on the first side of the centerline have a uniform wall thickness that is greater than the wall thickness

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of all of the sides and the corners on the second side of the centerline. Claim 56 recites that at least one of the corners is rounded.

IV. Conclusion

In view of the above amendments and remarks, Applicant respectfully submits that the present application is in condition for allowance. A notice to that effect is earnestly and respectfully requested.

Respectfully submitted,

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